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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,827	07/11/2001	Daniel M. Humes	YAK 365	1388

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EXAMINER

ROYAL, PAUL

ART UNIT PAPER NUMBER

3611

DATE MAILED: 12/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Applicati n No.

09/903,827

Applicant(s)

HUMES, DANIEL M.

Examiner

Paul Royal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The corrected or substitute drawings were received on 14 January 2002. These drawings are acceptable.

### ***Information Disclosure Statement***

2. The information disclosure statement (IDS) submitted on 18 March 2002 is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 2, 12 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations "rear wheel" in lines 3 and 7, frame in line 9, and "seat", in line 9. Claim 2 recites the limitations "skewer" in line 2 and "rear hub/axle" in line 3. Claim 12 recites the limitations "rear hub/axle" in lines 3 and 6, "rear wheel" in line 5, and "seat" in line 12. Claim 17 recites the limitations "rear hub/axle" in lines 3 and 6, "rear wheel" in line 5, "seat" in lines 5 and 13, and "seat post" in line 11.

There is insufficient antecedent basis for these limitations in the claims. If applicant's workpiece (the bicycle) has components (such as the rear wheel, frame, and

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seat) to which the claimed hitch assembly is attached, applicant should clearly recite that component, for example, by including the bicycle rear wheel, frame and seat in the preamble.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Stowe (US 5,039,120).

Stowe teaches a hitch assembly for mounting on a bicycle for connection to the tongue of a trailer, the hitch assembly comprising:

a hitch unit (23) mounted to the bicycle above it's rear wheel, rotatable about a substantially vertical first pivot axis, the hitch unit adapted for connection to the trailer's tongue to enable the tongue to pivot about a substantially horizontal pivot axis;

a support structure (21,22,28,41) connected to the bicycle for mounting the hitch unit above the rear wheel so that the first pivot axis is maintained substantially vertical; and

a stabilizer (50) detachable connected to the hitch unit (23) and the bicycle to permit movement of the hitch unit relative to the frame and the seat of the bicycle;

wherein the support structure (21,22,28,41) includes a wheelstay assembly (21,22,28,41) adapted for pivotal connection to a skewer extending through the rear hub/axle assembly of the bicycle;

wherein the stabilizer (50) includes a strut member (51), pivotally connected to the wheelstay assembly and adapted for detachable and pivotal connection to the bicycle, see column 2, lines 41-55.

5. Claim 12 is rejected under 35 U.S.C. 102(b) as being anticipated by Stowe (US 5,039,120).

Stowe teaches a hitch assembly for mounting on a bicycle for connection to the tongue of a trailer, the hitch assembly comprising:

a wheelstay assembly (21,22,28,41) detachably connected to the rear hub/axle of the bicycle, see column 2, lines 21-31 where it is understood that the wheels of a conventional bicycle are detachable;

a hitch unit (23) mounted on the wheelstay assembly above the rear wheel substantially directly above the rear hub/axle assembly, the hitch unit (23) being rotatably journaled to the wheelstay assembly for pivoting about a substantially vertical first pivot axis and adapted for connection to the tongue of the trailer to enable pivoting of the tongue about a substantially horizontal second pivot axis; and

a strut member (51) connected to the bicycle and to the wheelstay assembly (21,22,28,41) to maintain the wheelstay assembly substantially vertical during up and down movement of the rear wheel relative to the bicycle's seat.

***Allowable Subject Matter***

6. Claims 5-11 and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

For claims 5-11, the prior art does not show a hitch assembly as recited having a lengthwise-adjustable strut member.

For claims 13-16 the prior art does not show a hitch assembly as recited wherein the wheelstay assembly is pivotally connected to the rear hub/axle of the bicycle.

7. Claim 17 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is an examiner's statement of reasons for allowance: The prior art does not show a hitch assembly as recited having a lengthwise-adjustable strut member.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Arman teaches a bicycle trailer. Stowe '919 teaches a towing apparatus. Bussell teaches a bicycle coupling device. Albitre teaches a bicycle trailer. O'Connor teaches a bicycle trailer. Fake '600 teaches a bicycle trailer. Kelley et al. teaches a hitch. Adams teaches a bicycle trailer hitch. Chiu teaches a bicycle. Marchetto teaches a towing device. Couture teaches a coupling device for bicycles. Ellsworth et al. teaches a bicycle suspension apparatus.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
P. Royal  
December 10, 2002

Paul Royal  
Examiner  
Art Unit 3611

  
Lesley D. Morris  
~~Primary Examiner~~  
SPE AU3611